

REMARKS/ARGUMENTS

This is in response to the Office Action of November 14, 2006. Claims 46–190 are pending in this application, prior to entry of this amendment. Applicants have elected claims 46–68 and 93–117 with traverse. Such claims have been examined on the merits.

The examiner's indication of allowable subject matter in claims 46–68 and 93–117 is noted with appreciation.

In this amendment, independent claims 46 and 93 have been amended to address various issues raised by the examiner. Various dependent claims have also been amended to make them consistent with their respective independent claims and also, where appropriate, to address issues raised by the examiner.

A substitute specification is provided to address certain issues in the specification (namely, the presence of an attorney docket number in the top margin of the application as originally filed) that could not readily be corrected by any other means. Certain other issues in the specification, identified by the examiner, have been addressed through replacement paragraphs.

This amendment is believed to have corrected all remaining deficiencies so that a Notice of Allowance can be promptly issued.

The following numbered paragraphs and headers correspond to like numbered paragraphs and headers in the office action:

1. Claims 46–190 are pending in this application, prior to entry of this amendment. Applicants have elected the Group I claims 46–68 and 93–117 with traverse. Such claims have been examined on the merits. No further response to this paragraph is believed necessary.

Abstract

2. The abstract of the disclosure was objected to because the abstract (as originally filed) contained over 150 words. Correction was required.

The specification has been amended to provide a new Abstract that contains no more than 150 words. It is requested that this new Abstract be approved and entered.

Claim Objections

3. Claims 46, 56, 61, 68, 93, 94, 102, 104, 109, 114, 116, and 117 were objected to because of various informalities, as will be addressed.

Firstly, the examiner indicated that claims 45 [*sic*, 46], 65, 93, and 114 were in an improper claim format for method claims. As to claim 46, the examiner asserted that claim 46 recites “**In an online commerce system** including a buyer computer operated by a buyer ...” etc. (emphasis supplied, remainder of claim omitted), but would be better recited as “**An online commerce system** including a buyer computer operated by a buyer ... a method for completing a transaction ... comprising the computer-implemented steps of: ... receiving ... communicating ... receiving ... requesting ...” etc. (emphasis supplied, remainder of claim omitted).

It appears that the examiner is requiring the applicant to rephrase these **method claims** by (a) moving the gerund action word (e.g. receiving, communicating, requesting, querying, etc.) to be the first word in the paragraph, and (b) moving any modifying/qualifying clauses (e.g. “in response to receipt of the transaction information ...”) to appear after the gerund action word.

Assuming this to be the requirement, applicant has amended claims 46, 65, 93, and 114 by so rephrasing the claims. By the way, similar amendments were made to claims 66 and 115 for the sake of consistency.

The examiner further indicated that claims 46, 61, 65, 93, 94, 102, 109, 114, 116, and 117 have a problem with the usage of the word “via,” and suggested that the word “by” or “through” would be better.

Although the applicants believe that the term “via” is well understood as meaning “by” or “by means of,” applicants have replaced all uses of the term “via” with other words that have a similar meaning, such as “through” or “using.”

The examiner further indicated that claim 46, page 3 [which is not understood] recites “...delivered to the buyer, determining if the goods ...” would be better recited, “...delivered to the buyer and determining if the goods ...”

This requirement is not understood and therefore traversed. It is believed that the examiner meant to suggest for the last paragraph of claim 46 that the term “in response to a

determination ...” would be better phrased as “in response to determining” Assuming this to be the requirement, the last two paragraphs of claim 46 have been amended to (a) move the qualifying/modifying clause to appear after the gerund form action word, (b) replace the term “if” with whether, and (c) change the word “determination” to determining.

If the applicants have misunderstood the requirement, it is requested that an appropriate change be made by examiner’s amendment.

As to claims 56 and 104, the examiner required insertion of the conjunction “and” before the last term in the group. Such changes have been made.

As to claim 68, the examiner indicated that claim 68 appears redundant by reciting “associating a tracking number associated with the shipment,” and suggested rephrasing to recite “associating a tracking number with the shipment.” Such change has been made to claim 68, and similar changes have also been made to claims 46 and 67 for the sake of consistency.

It is believed that the foregoing amendments have addressed all of the claim objections made by the examiner. However, further claim amendments relating to claim rejections under 35 USC § 112 are discussed below.

Specification

4. The specification was objected to because the attorney docket number at the top left side of each page needs to be removed for printing purposes.

In this regard, a substitute specification has been submitted herewith, in accordance with 37 CFR § 1.121(b)(3), with (1) markings showing all the changes relative to the immediate prior version of the specification and (2) an accompanying clean version in accordance with 37 CFR § 1.125(c). The attorney docket number has been removed from the top margin, as required.

The examiner further indicated that page 22 at lines 28 and 29, and page 23, lines 2 and 3, in order to avoid confusion as to which figure is being discussed, should be reworded to include reference to FIG. 1 and FIG. 2. A corresponding amendment (by replacement paragraph) as been made, as required by the examiner. No new matter is added.

The examiner further indicated that it was unclear from the specification where certain elements “910, 930–990, 360, and 995” were described in the description of FIGS. 10 and 11. Correction was required.

A corresponding amendment by replacement paragraphs for the descriptions of FIG. 10 and FIG. 11 has been made, so as to clarify that the reference numerals for the steps shown in FIG. 10 and 11, correspond to the same respectively numbered steps shown in FIG. 9, as described in connection with FIG. 9. No new matter was added, merely clarifying statements about the reference numerals for the steps.

The foregoing amendments are believed to have addressed all of the examiner’s objections to the specification.

Claim Rejections – 35 USC § 112

5. This paragraph is a quotation of the second paragraph of 35 USC § 112. No specific response is believed necessary.

6. Claims 46 and 93 were rejected under 35 USC § 112, second paragraph, on the ground that the preamble of claim 46 was ambiguous because it was allegedly unclear whether the applicants are claiming a system or a method. Claim 93 was asserted to have a similar problem. It appears that the examiner thinks the claim ambiguous because the preamble contains numerous system (apparatus) type elements, e.g. online commerce system, buyer computer, seller computer, transaction computer, shipping service tracking database, etc. The examiner suggested/required that the preamble of a method claim should begin with “A network-accessible **method for facilitating transactions ...**” etc.

The applicants believe that both claims 46 and 93 would be clearly understood as method claims because (1) the transition phrase clearly recited, “**a method** for completing a transaction between a buyer and a seller ...” and (2) there is no set statutory form for claims (MPEP 608.01(m)), and (3) the preamble sets forth structure (apparatus) in which the claimed method is particularly suitable. Nonetheless, in an effort to move this case along quickly to allowance, applicants have further amended claims 46 and 93 so that the beginning of the claims recite “A method for facilitating a transaction between a buyer and a seller ...” and “the method

comprising the computer-implemented steps of” The amendment is not exactly as suggested by the examiner, but it is believed that the rewording more than adequately addresses the examiner’s requirement and clearly reveals both claims as directed to a method.

Claim 46 was also rejected under 35 USC § 112, second paragraph, as being incomplete for omitting essential steps. The examiner identified the allegedly missing steps as, before instructions are communicated to the seller computer to ship goods by a selected pre-authorized shipping service, there is not another step in the claim containing the “selected pre-authorized shipping service.”

The applicants interpret the examiner’s objection to mean that a step for selecting a pre-authorized shipping is required before instructions can be communicated to the seller computer to ship the goods by a “selected” pre-authorized shipping service. In this regard, claim 46 has been amended to remove the requirement of “as least one” pre-authorized shipping service, so as to recite merely “a” preauthorized shipping service and to remove the limitation of communicating to a “selected” preauthorized shipping service. Such limitation is not believed necessary to patentability – although multiple shipping services are certainly within the scope of the invention. It is believed that this amendment addresses the rejection.

Similarly, the examiner indicated that after the “querying a shipping service tracking database ...” the next step should recite “indicating based at least in part on information from querying the shipping service database based on the tracking number determining that the goods have been delivered to the buyer and determining” (Emphasis supplied).

This requirement for this change is not understood and therefore traversed. Nonetheless, in an effort to clarify the claim and show that no essential steps are omitted, the applicants have amended claim 46 to recite, after the “querying the shipping service tracking database ...” , the step of determining, based at least in part on information from the query to the shipping service database indicating that the goods have been delivered to the buyer, whether ...” the goods have been acceptably delivered, and effecting, in response to determining that the goods have been acceptably delivered to the buyer ...” completion of the transaction. This amendment changes the phrase “in response to a **determination** ...” to the phrase in response to determining, which

is a clear reference to the preceding step of “determining based at least in part of information from the query” It is believed that this amendment addresses the rejection.

Response to Arguments with Traverse

7. This paragraph contained the examiner’s response to the applicants’ arguments traversing the restriction requirement. No specific response is believed necessary, as the examiner has made the restriction final. Applicant maintains the traverse for purposes of appeal, should that become necessary, but otherwise accedes to the requirement, without admitting that the restriction is proper or otherwise.

Allowable Subject Matter

8. The indication of allowable subject matter in claims 46–68 and 93–117 is noted with appreciation. It is believed that the amendments made herein overcome all remaining objections and rejections and should place such claims in condition for allowance.

9. This paragraph contained the examiner’s statement of reasons for the indication of allowable subject matter.

Pursuant to MPEP § 1302.14, the following comments by the applicants are provided so that the record is clear that the applicants do not necessarily agree with the reasons given by the examiner for allowing this application – applicants believe that the claims are patentable for such reasons and for other reasons as well. Although the applicants appreciate the indication of allowance, these comments are believed necessary so as to negate any presumption of acquiescence to those reasons and any negative inferences that may flow therefrom.

The examiner’s statement of reasons indicated that claims 46 and 93 recited “querying the shipping service tracking database to determine whether the goods have been delivered to the buyer; indicating based at least in part on information from the shipping service database that the goods have been delivered to the buyer and determining if the goods have been acceptably delivered to the buyer as of an indicated delivery date; and determining in response that the goods have been acceptably delivered to the buyer as of the indicated delivery date, effecting

completion of the transaction by communicating an instruction to the payment instrument processor to make payment to the seller.”

While Applicant does not dispute this statement as a reason for allowance, and with the understanding the claims do not read exactly as indicated above, applicants would like the record to be clear that the claims include various elements and steps which form part of a patentable overall combination of elements and/or process steps, and that the claims should not be viewed as allowable solely because of the recited statement.

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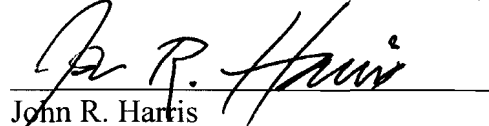
Conclusion

For the foregoing reasons, it is respectfully submitted that independent claims 46 and 93, as amended, and their respective dependent claims, have utility, are novel and non-obvious in view of the references, and should be allowable. The foregoing is presented as a full and complete response to the Office Action mailed November 14, 2006, and is believed to have placed all claims in condition for allowance. Such action is courteously solicited. If any issues remain that can be resolved by telephone, the Examiner is respectfully requested to contact the undersigned at 404-233-7000.

It is now believed that the application is in condition for allowance and such allowance is respectfully requested.

Respectfully submitted,

MORRIS, MANNING & MARTIN, LLP

A handwritten signature in dark ink, appearing to read "John R. Harris", is written over a horizontal line.

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